

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARION PHENEGER
1685 Stony Brook Ln Apt 417
Brunswick, Ohio 44212

Plaintiff,

V.

**FOCUS RECEIVABLES
MANAGEMENT, LLC**
c/o CT Corporation System
1300 East Ninth Street
Cleveland, Ohio 44114

Defendant.

Case No.: 1:12-cv-830

JURY DEMAND REQUESTED

CIVIL COMPLAINT

(Unlawful Debt Collection Practices)

COMPLAINT

PLAINTIFF MARION PHENEGER (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT FOCUS RECEIVABLES MANAGEMENT, LLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in, Medina County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Georgia business entity and a debt collector with an office in Marietta, Georgia.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant places collection calls to Plaintiff at telephone number: 330-460-3995.
11. Plaintiff receives collection calls from Defendant from telephone number: 678-228-3469.
12. Defendant alleges Plaintiff owed \$1,000 on a Bank of America Card, but now wrongfully and unlawfully claims Plaintiff owes \$4,000.

13. Defendant calls Plaintiff almost every day, and often multiple times per day.
14. Defendant has placed calls to Plaintiff, who is over 80 years of age, as late as 9:30 to 10:00 PM in the Plaintiff's time zone.
15. Defendant calls and contacts with Plaintiff, based upon the timing and wrongfully inflated amount sought, were made with intent to annoy and harass Plaintiff as the call and contact recipient.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692c(a)(1) by, without the prior direct consent of the consumer, communicating with the consumer at any unusual time or place or a time and place known to be inconvenient to the consumer, including before 8:00 AM and after 9:00 PM local time at the consumer's location.
 - b. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
 - c. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
 - d. Defendant violated §1692e by using any false, deceptive, or misleading representation or means in connection with the collection of a debt.

WHEREFORE, Plaintiff, MARION PHENEGER, respectfully requests judgment

be entered against Defendant, FOCUS RECEIVABLES MANAGEMENT, LLC, for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff MARION PHENEGER requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

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